IN THE HIGH COURT OF ANDHRA PRADESH
AT HYDERABAD

W.P.No.6580 of 2001

Dt.22-08-2007

Between:
Dr.A.Nagarjunudu

..Petitioner

and

1. N.T.R. University of Health Sciences,
   A.P. Vijayawada rep. by its Registrar
   and others.

..Respondents

THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

W.P.No.6580 of 2001

Oral Order:

Petitioner, who joined in the State Government service in the year 1993 on completion of his M.B.B.S. Degree in the year 1981 pursuant to the notification issued by the NTR University of Health Sciences, applied for P.G. Course for the academic year 1998-99. The seats are available only to the in-service candidates. The petitioner was given Merit Order No.26. In the selections he was offered diploma in Clinical Pathology vide selection intimation dated 16-06-1999. Accordingly he was admitted into the course vide Admission Card dated 21-06-1999 issued by the Principal, Gandhi Medical College, Hyderabad. As per the admission conditions, the service candidates have to get relieving orders from the last station where they are working. At that time the petitioner was working at Primary Health Centre, Gundala, Nalgonda District. Therefore, he made an application to the Director of Health for relieving him from the post for prosecuting his studies in P.G. Course. Pursuant to the same the Director of Health vide proceedings dated 22-06-1999 permitted the petitioner to join the P.G. Course and directed the District Medical and Health Officer, Nalgonda to make alternative arrangements, who in turn issued a Movement Order dated 12-07-1999; but he was not received from the duty. Thereafter, another Movement Order dated 23-07-1999 was issued calling upon the petitioner to handover the charge to Dr.G.Chinnappa Reddy, Medical Officer, PHC, Addagudur. In spite of the same the petitioner was not relieved. Therefore, he approached the

A.P. Administrative Tribunal, Hyderabad by filing O.A.No.4867 of 1999. As per the directions of the Tribunal he was relieved from duty on the forenoon of 18-08-1999 and accordingly he joined in P.G. Course on the next day, which is evident from the proceedings of the Principal dated 19-08-1999. While so, the University of Health Sciences issued a notification dated 12-03-2001 communicating the time table for the P.G. Degree/Diploma Examinations scheduled to be held in the month of May, 2001 specifying the theory examinations will be commenced from 16-05-2001 to 21-05-2001 and practical/clinical examinations from 25-05-2001. The last date for receipt of applications is 27-03-2001. As per the notification, the candidates who admitted into the P.G. Diploma Courses in 1998-99 and completed the study period of 2 years are eligible to appear for the examination to be held in May, 2001 and the applications of the eligible candidates who are having 85% of attendance will be forwarded to the University. Petitioner who possesses 90% of attendance submitted his application, but the same was rejected by office notice dated 30-03-2001 on the ground that he has not completed the required period of study for appearing P.G. examinations as on 31-07-2001 and therefore, not eligible to appear for the P.G. examinations scheduled to be held in May 2001.

Questioning the same he filed the present writ petition contending that he got selection into P.G. Course by Admit Card No.25; but due to non-reliving from the post held earlier, he joined in the course on 19-08-1999. Even if the date of admission is taken, he will complete the required period of study of two years on 18-08-2001. The same should not come in the way of writing examinations for the candidates who admitted in the academic year 1999-2000, 2000-2001.

One Dr. N.V.Ramamohan Rao, who selected for the course along with him, was admitted into the course on 21-06-1999, relieved from the Government duty on 04-07-1999 and joined the course on 05-07-1999. Though he has not completed required period of two years of study, as on the date of examination, he was made eligible for appearing for the examination, but the petitioner was not permitted without their being any rationale criteria. The Medical Council of India Rules only prescribes 80% of training during each calendar year and as per the Medical Council of India Regulations, the academic year is from 1st January to 31st December of any calendar year. Therefore, prescription of 31st July as cut off date has no relevance that too in case of in-service candidates.

This Court while admitting the writ petition directed the respondents to permit the petitioner to appear for the examinations to be held in the month of May, 2001. However, the result of the petitioner shall not be announced/declared until further orders.

The NTR University of Health Sciences—1st respondent filed a counter admitting the fact of petitioner selecting and joining in the course. The University has prescribed the cut off date as 31-07-2001 keeping the theory and practical examinations to be concluded before the said date. Petitioner cannot compare himself with Dr.N.V.Rammohan Rao, who alleged to have reported to the course on 04-07-1999. In view of the cut off date fixed by the University, the petitioner cannot be permitted to write examinations. The Regulations framed by the Medical council of India under Sections 19 to 33 are having binding force on students and the Universities imparting medical education throughout the country as held by the Supreme

Court in ***MEDICAL COUNCIL OF INDIA v. STATE OF KARNATAKA***[1]. The decision of the University in fixing the cut off date is based upon the decision taken by the experts in the field having vast knowledge and the petitioner having now challenged the cut off date prescribed is not entitled to any relief. The question of computation of attendance arises only after completion of the entire training programme as held by the Division bench of this Court in ***DR.S.SURYA NARAYANA v. UNIVERSITY OF HEALTH SCIENCES***. Therefore, the petitioner is not entitled to appear for the examination.

Learned counsel for the petitioner submits that the petitioner, in fact, was admitted into the course on 21-06-1999 as per the Admission Card issued by the Principal, Gandhi Medical College on condition that he should be relieved from the place of working and accordingly, he relieved from the duty and joined in the course therefore, the cut off date fixed by the University has no relevance. The petitioner has to complete the study in two academic years from the date of admission and in fact, he completed two years of study by 18-08-2001, therefore, he cannot be deprived of writing examination.

Learned counsel for the 1st respondent—University submits that as per Regulation 10 of Post Graduate Medical Education Regulations, 2000 (for short “the Regulations”) issued by the Medical Council of India the period of training for obtaining a postgraduate diploma shall be two completed years including the examination period. As the petitioner has not completed two years of training, he is not entitled to appear for the examination.

Regulation 10 prescribes the period of training for the award

of various postgraduate degrees or diplomas as follows:

(1) x x xx

(2) x x xx

(3) Diplomas

The period of training for obtaining a postgraduate Diploma shall be two completed years including the examination period.

The word "*completed years*" has not been specified under the Rules, it is only understood "*two completed academic years"* but not "*two years*". Admittedly, the P.G. Course was started in the month of June for the academic year 1999-2000. Therefore, the period of two years will be completed by June, 2001. The cut off date is fixed as 31-07-2001 and before the said date all the examinations have to be completed. The petitioner has put in 90% of attendance; he joined in the academic year 1999-2000 and prosecuted the course in 1999-2000, 2000-2001. Therefore, he cannot be deprived of writing examination only on the ground that he has not completed full two years of study. It is not the case of the University that another examination will be conducted for the candidates who have completed two years of course later. For no fault of the petitioner he has to wait and write the examination for the next academic year.

In view of the same, rejection of the petitioner's application by the University on the ground that he has not completed full two years is erroneous and accordingly the impugned order is set aside. As the petitioner has already been permitted to write examinations pursuant to the interim order dated 20-04-2001, the respondents are hereby directed to declare the results of the petitioner forthwith.

The Writ Petition is accordingly allowed. No costs.

A.GOPAL REDDY, J.

22-08-2007

Murthy

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[1] (1998) 6 SCC 131